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Nils-Erik Engstrom

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NOVAK, DRUCE + QUIGG L.L.P. - PERGO

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EXAMINER

SPAHN, GAY

ART UNIT

PAPER NUMBER

3635

MAIL DATE

DELIVERY MODE

04/10/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of Non-Compliant Amendment (37 CFR 1.121)

Application No.

10/580,191

Examiner

Gay Ann Spahn

Applicant(s)

ENGSTROM, NILS-ERIK

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 16 January 2009 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☒ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☒ C. Other See Continuation Sheet.
- ☒ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☒ B. Other See Continuation Sheet.
- ☒ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☒ C. Other See Continuation Sheet.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.
- ☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4):

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action. If any of above boxes 1. to 4. are checked, the correction required is only the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Continuation of 1(c) Other:

First, Applicant's instruction to "Please amend the paragraphs beginning on page 2, as follows:" is not an unambiguous instruction because that Applicant appears to be amending below this quoted instruction is shown on page 7, not page 2. Further, it is not clear where the paragraph beginning on page 7, line 11, ends. In other words, it is not clear if page 7, line 11 through page 7, line 24 is a single paragraph OR if page 7, lines 11-14 is a single paragraph, AND page 7, lines 15-16 is another paragraph, AND page 7, lines 17-18 is another paragraph, AND page 7, lines 19-20 is another paragraph, AND page 7, lines 21-22 is another paragraph, AND page 7, lines 23-24 is another paragraph.

If page 7, lines 11-24, is a single paragraph, then Applicant has not amended the paragraph in compliance with 37 CFR 1.121 because: (1) the entire text of the paragraph has not included; (2) the semi-colon punctuation mark after the words "present invention" in the fourth line under the first instruction was not in the original text (i.e., there was a period punctuation mark in the original text that needs to be deleted and the semi-colon punctuation marks needs to be underlined); (3) line 1 of the paragraph beginning with "-figure 2 shows . . ." does not have the word "third" deleted correctly because it must be deleted by either double brackets of strike-through and further, if this is a separate paragraph, it must begin with a capital letter; and (4) the "a-3c" and the semi-colon punctuation mark after the words "present invention" in the eleventh line under the first instruction was not in the original text (i.e., there was only "figure 3", not "figure 3a-3c" and there was a period punctuation mark in the original text that needs to be deleted and the "a-3c" and the semi-colon punctuation mark need to be underlined).

If page 7, lines 11-14 is a single paragraph, and page 7, lines 15-16 is a single paragraph, and page 7, lines 17-18 is a single paragraph, then Applicant has not amended in compliance with 37 CFR 1.121 because: (1) the semi-colon punctuation mark after the words "present invention" in the fourth line under the first instruction was not in the original text (i.e., there was a period punctuation mark in the original text that needs to be deleted and the semi-colon punctuation marks needs to be underlined); (2) line 1 of the paragraph beginning with "-figure 2 shows . . ." does not have the word "third" deleted correctly because it must be deleted by either double brackets of strike-through and further, is this is a separate paragraph, it must begin with a capital letter; and (3) the "a-3c" and the semi-colon punctuation mark after the words "present invention" in the eleventh line under the first instruction was not in the original text (i.e., there was a period punctuation mark in the original text that needs to be deleted and the "a-3c" and the semi-colon punctuation mark need to be underlined) and further, if lines 17-18 is a separate paragraph, the word "-figure" must begin with a capital letter.

Second, the second instruction to "Amend page 9 second full paragraph as follows:" is not unambiguous as there is no second full paragraph on page 9, only a paragraph spanning pages 9-10 and Applicant's amendment to that paragraph is non-compliant because Applicant has not included the full text of the paragraph (i.e., the paragraph extends from page 9, line 11 to page 10, line 9 and to amend the paragraph, Applicant must include all of the text from page 9, line 11 to page 10, line 9 - it appears that Applicant only has the portion of the paragraph from page 9, line 11-32).

Third, Applicant has not amended the paragraph spanning pages 10-11 in compliance with 37 CFR 1.121 because 37 CFR 1.121(a) required compliance with 37 CFR 1.52 and 37 CFR 1.52(b)(2)(i) requires either double spacing or 1 1/2 spacing and lines 8 and 9 are not double or 1 1/2 spaced.

Continuation of 2(b) Other: The Abstract has not been amended in compliance with 37 CFR 1.121(b)(1)(ii) in that it does not show the markings to the paragraph so that the Examiner can easily discern the changes made thereto. The Manual of Patent Examining Procedure (MPEP) section 608.01(b) states that "the abstract of the disclosure has been interpreted to be a part of the specification for the purposes of compliance with paragraph 1 of 35 U.S.C. 112 (In re Armbruster, 512 F.2d 676, 678-9, 185 USPQ 152, 154 (CCPA 1975))" and therefore, the examiner needs to know what changes Applicant has made to the Abstract in order to make sure that no new matter has been added. It is not showing the examiner the changes that have been made to the Abstract by simply instructing to replace the original Abstract with a new Abstract as was done in the Amendment filed 16 January 2009. Therefore, in order to comply with 37 CFR 1.121(b)(1)(ii), Applicants must amend the Abstract by underlining those words that have been added to the Abstract and striking through those words that have been deleted from the Abstract, except that deletion of five or fewer characters may be shown by double bracketing.

Continuation of 3(c) Other: The examiner notes that 37 CFR 1.121(d), last sentence, requires that "All changes to the drawings shall be explained, IN DETAIL, in either the drawing amendment or remarks section of the amendment paper" and Applicant has failed to explain all of the drawing changes IN DETAIL in either the "Amendments to the Drawings" section or the "REMARKS" section.

Continuation of 4(e) Other: It appears that Applicant has attempted to amend claims 2-7, 10, 12, and 13 by deleting the first word "A", but single brackets are non-compliant in that 37 CFR 1.121(c)(2) clearly requires strike-through or placing double brackets therearound for deletions. Also, in claim 2, lines 1-3, the words "the joints comprising a first edge and a second edge whereby the first edge comprises a groove and a second edge is provided with a tongue" cannot be deleted by single brackets and must be deleted by strike-through. In claim 2, lines 3-4, the words "and the second edge comprises an upper side groove, that a" cannot be deleted by single brackets and must be deleted by strike-through. Claim 2, line 5, the words "and an intermediate section" cannot be deleted by single brackets and must be deleted by strike-through. Claim 2, line 6, the "ing" can only be deleted by double brackets therearound or strike-through, not single brackets therearound. Claim 3, line 2, the word "that" can only be deleted by double brackets therearound or strike-through, not single brackets therearound. Claim 4, lines 1-2, are not in compliance with 37 CFR 1.121(a) for failing to comply with 37 CFR 1.52(b)(2)(i) which requires either double spacing or 1 1/2 spacing and lines 1 and 2 are not double or 1 1/2 spaced. Claim 13, line 3, the word "adapted" cannot be deleted by single brackets therearound and must be deleted by strike-through.

/Gay Ann Spahn/
Gay Ann Spahn, Primary Examiner
April 8, 2009